

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 499 of 1993

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JEBUN UMARBHAI VEPARI

Versus

IKBAL FAKIRMOHMED

Appearance:

MR SD PATEL for Petitioner

MR SK BUKHARI for Respondent No. 1

Mr. ST Mehta, Addl. PP for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 11/02/97

ORAL JUDGEMENT

This petition arises of a claim for maintenance made by petitioner No. 1 against respondent No. 1. The petitioners preferred Criminal Miscellaneous Application No. 53 of 1989 before the learned Judicial Magistrate, First Class, Dhrangadhra. Said application was allowed on

30th March, 1992. The learned Magistrate awarded monthly maintenance of Rs. 400/- and Rs. 200/- to the wife and the minor son respectively.

2. Feeling aggrieved, respondent No. 1 preferred Criminal Revision Application No. 24 of 1992 before the learned Additional Sessions Judge, Surendranagar. The learned Additional Sessions Judge, Surendranagar, under his judgment and order dated 20th September, 1993 allowed the said Criminal Revision Application and rejected the claim of petitioner No. 1 for maintenance from respondent No. 1.

3. Petitioner No. 1 had alleged that she was being ill-treated by the family members of respondent No. 1 on account of dowry brought by her and more dowry was being demanded by them. She, therefore, had to leave the home of respondent No. 1 and to reside alongwith her parents. The learned Additional Sessions Judge, on appreciation of evidence, recorded finding that the petitioner No. 1 had resided with respondent No. 1 hardly for one month after her marriage and she had left her matrimonial home because she wanted to live with respondent No. 1 separate from other members of the family. He, therefore, held that the petitioner No. 1 had refused to live with her husband-respondent No. 1 without sufficient reason. He, therefore, rejected the claim of petitioner No. 1 for maintenance from respondent NO. 1.

4. It has been brought on records of the matter that pending the petitioners' claim for maintenance, respondent No. 1 has contracted another marriage and his second wife is residing with him. In that view of the matter, petitioner No. 1 cannot now be expected to reside with respondent No.1. Further, I am told that in view of the interim order made by this Court, respondent No. 1 has continued to pay the maintenance to the petitioners as directed by the trial Court. In view of the above, though I am of the view that the findings recorded by the learned Additional Sessions Judge are correct and donot require to be interfered with, I direct that respondent No. 1 shall continue to pay the maintenance to the petitioners as directed by the trial Court. The judgment and order of the learned Additional Sessions Judge, Surendranagar in Criminal Revision Application NO. 24 of 1992 dated 20th September, 1993 is quashed and set aside. Petition is allowed accordingly. Rule is made absolute.

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